

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

UNITED STATES OF AMERICA §
v. § CRIMINAL ACTION NO. 9:98cr6(9)
MICHAEL JOSEPH DERROW §

ORDER ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE AND PARTIAL ORDER
OF DISMISSAL

The [Report and Recommendation](#) of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of [Derrow's Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3742\(a\)\(1\) and \(2\) \(document #334\)](#), has been presented for consideration. The Report and Recommendation recommends that the Motion for Modification of Sentence be construed as a successive § 2255 motion and be denied. Derrow filed [written objections](#) on December 14, 2007.

Having made a *de novo* review of the [written objections](#) filed by Derrow, the Court finds that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. Derrow is again attempting to challenge the validity of his underlying conviction and sentence and he has not shown that the Fifth Circuit authorized him to file a successive § 2255 motion. The findings and conclusions of the Magistrate Judge are hereby adopted as those of the Court.

In light of the foregoing, it is

ORDERED that Derrow's [Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3742\(a\)\(1\) and \(2\) \(document #334\)](#) is construed as an unauthorized successive § 2255 motion and is **DENIED**.

So **ORDERED** and **SIGNED** this **27** day of **December, 2007**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge